

UNITED STATES DISTRICT COURT

Southern

District of

New York

Gorge Rivera, 88 Moriches Avenue
Mastic, NY 11950

v.
Metro-North Commuter Railroad, 347 Madison
Avenue, New York, NY 11017

SUMMONS IN A CIVIL ACTION

08 CV 4853
CASE NUMBER:

JUDGE SWEET

TO: (Name and address of Defendant)

Metro-North Commuter Railroad
Legal Department
347 Madison Avenue
New York, NY 10017

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Law Offices of Kantor & Godwin, PLLC,
5800 Main Street
Williamsville, NY 14221

an answer to the complaint which is served on you with this summons, within Thirty (30) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

MAY 23 2008

J. MICHAEL McMAHON

CLERK

15/Catherine Lissney
(By) DEPUTY CLERK

DATE

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

Served personally upon the defendant. Place where served:

Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:

Returned unexecuted:

Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
		\$0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____

Date _____

Signature of Server _____

Address of Server _____

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

JUDGE SWEET

08 CV 4853

This civil cover sheet and the information contained herein neither replace nor supplement the service of process or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

George Rivera, 88 Moriches Ave., Mastic, NY 11950

DEFENDANTS

Metro-North Commuter Railroad, 347 Madison Ave., New York, NY 10017

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Law Offices of Kantor & Godwin, PLLC, 5800 Main St., Williamsville, NY 14221

ATTORNEYS (IF KNOWN)

Metro-North Commuter Railroad, Legal Dept., 347 Madison Ave., New York, NY 10017

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

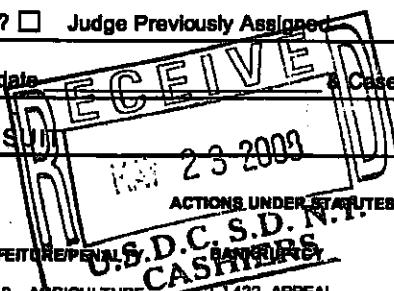
FEDERAL EMPLOYERS' LIABILITY ACT, 45 USC Section 51, et seq.

Has this or a similar case been previously filed in SDNY at any time? No Yes? Judge Previously AssignedIf yes, was this case Vol Invol. Dismissed. No Yes If yes, give date

Case No.

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF S



CONTRACT	TORTS	FORFEITURE/PENALTY	OTHER STATUTES
	PERSONAL INJURY	PERSONAL INJURY	
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 400 STATE REAPPORTIONMENT
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	<input type="checkbox"/> 620 FOOD & DRUG	<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> 315 LIABILITY	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 430 BANKS & BANKING
<input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT	<input type="checkbox"/> 320 ASSAULT, LIBEL & BLANDER	<input type="checkbox"/> 635 PERSONAL INJURY	<input type="checkbox"/> 450 COMMERCE/ICC RATES/ETC New
<input type="checkbox"/> 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	<input type="checkbox"/> 330 FEDERAL EMPLOYERS' LIABILITY	<input type="checkbox"/> 638 ASBESTOS PERSONAL INJURY PRODUCT	<input type="checkbox"/> 460 DEPORTATION
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 340 MARINE LIABILITY	<input type="checkbox"/> 640 LIQUOR LAWS	<input type="checkbox"/> 470 RACKETEER INFLUENCED & CORRUPTED ORGANIZATION ACT (RICO)
<input type="checkbox"/> 152 RECOVERY OF DEFANTED STUDENT LOANS (EXCL VETERANS)	<input type="checkbox"/> 345 MARINE PRODUCT LIABILITY	<input type="checkbox"/> 640 & TRUCK	<input type="checkbox"/> 480 CONSUMER CREDIT
<input type="checkbox"/> 153 RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 650 AIRLINE REGS	<input type="checkbox"/> 490 CABLE/SATELLITE-TV
<input type="checkbox"/> 160 STOCKHOLDERS SUITS	<input type="checkbox"/> 355 MOTOR VEHICLE PRODUCT LIABILITY	<input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH	<input type="checkbox"/> 510 ELECTIVE SERVICE
<input type="checkbox"/> 190 OTHER CONTRACT	<input type="checkbox"/> 360 OTHER PERSONAL INJURY	<input type="checkbox"/> 690 OTHER	<input type="checkbox"/> 580 SECURITIES/ COMMODITIES/ EXCHANGE
<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY			<input type="checkbox"/> 581 CUSTOMER CHALLENGE
<input type="checkbox"/> 198 FRANCHISE			<input type="checkbox"/> 582 BLACK LUNG (923)
	ACTIONS UNDER STATUTES		<input type="checkbox"/> 583 DIFC (405(g))
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 583 DIFW (405(b))
			<input type="checkbox"/> 584 SSID TITLE XVI
<input type="checkbox"/> 210 LAND CONDEMNATION	<input type="checkbox"/> 441 VOTING	<input type="checkbox"/> 710 FAIR LABOR STANDARDS ACT	<input type="checkbox"/> 585 RSI (405(g))
<input type="checkbox"/> 220 FORECLOSURE	<input type="checkbox"/> 442 EMPLOYMENT	<input type="checkbox"/> 720 LABOR/MGMT	<input type="checkbox"/> 586 AGRICULTURE ACTS
<input type="checkbox"/> 230 RENT LEASE & EJECTMENT	<input type="checkbox"/> 443 HOUSING ACCOMMODATIONS	<input type="checkbox"/> 730 LABOR/MGMT	<input type="checkbox"/> 589 ECONOMIC STABILIZATION ACT
<input type="checkbox"/> 240 TORTS TO LAND	<input type="checkbox"/> 444 WELFARE	<input type="checkbox"/> 740 DISCLOSURE ACT	<input type="checkbox"/> 589 ENVIRONMENTAL MATTERS
<input type="checkbox"/> 246 TORT PRODUCT LIABILITY	<input type="checkbox"/> 445 AMERICANS WITH DISABILITIES - EMPLOYMENT	<input type="checkbox"/> 750 RAILWAY LABOR ACT	<input type="checkbox"/> 594 ENERGY ALLOCATION ACT
<input type="checkbox"/> 290 ALL OTHER REAL PROPERTY	<input type="checkbox"/> 446 AMERICANS WITH DISABILITIES - OTHER	<input type="checkbox"/> 760 OTHER LABOR	<input type="checkbox"/> 595 FREEDOM OF INFORMATION ACT
		<input type="checkbox"/> 770 LITIGATION	<input type="checkbox"/> 596 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
		<input type="checkbox"/> 780 EMPL RET INC SECURITY ACT	<input type="checkbox"/> 597 CONSTITUTIONALITY OF STATE STATUTES
			<input type="checkbox"/> 598 OTHER STATUTORY ACTIONS

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ OTHER JUDGE DOCKET NUMBERCheck YES only if demanded in complaint
JURY DEMAND: YES NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN X IN ONE BOX ONLY)

ORIGIN

1 Original Proceeding 2a. Removed from 3 Remanded from 4 Reinstated or Reopened 5 Transferred from 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judge

2b. Removed from State Court AND at least one party is a pro se litigant

(PLACE AN X IN ONE BOX ONLY)

BASIS OF JURISDICTION

1 U.S. PLAINTIFF 2 U.S. DEFENDANT 3 FEDERAL QUESTION 4 DIVERSITY
(U.S. NOT A PARTY)

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.
(28 USC 1332, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF <input type="checkbox"/> 111	DEF <input type="checkbox"/> 111	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF <input type="checkbox"/> 113	DEF <input type="checkbox"/> 113	INCORPORATED <small>and</small> PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF <input type="checkbox"/> 115	DEF <input type="checkbox"/> 115
CITIZEN OF ANOTHER STATE	PTF <input type="checkbox"/> 112	DEF <input type="checkbox"/> 112	INCORPORATED <small>or</small> PRINCIPAL PLACE OF BUSINESS IN THIS STATE	PTF <input type="checkbox"/> 114	DEF <input type="checkbox"/> 114	FOREIGN NATION	PTF <input type="checkbox"/> 116	DEF <input type="checkbox"/> 116

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Gorge Rivera
88 Moriches Ave.
Mastic, NY 11950
Suffolk County

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Metro-North Commuter Railroad
347 Madison Avenue
New York, NY 10017
New York County

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS FOLEY SQUARE
(DO NOT check either box if this a PRISONER PETITION.)

DATE 5/21/08

SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

 NO YES (DATE ADMITTED Mo. 7 Yr. 2000)Attorney Bar Code # R-62201

RECEIPT #

1/5/ Robert W. Goldwin

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge ELLIS is so Designated.

J Michael McMahon, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

JUDGE QUINN
UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

08 CV 4853

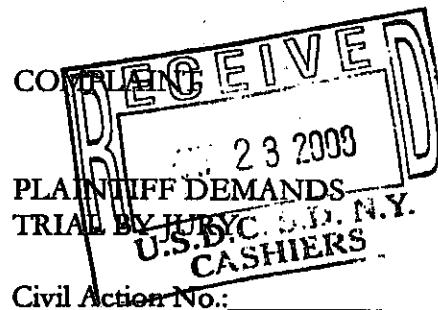
GORGE RIVERA
88 Moriches Avenue
Mastic, New York 11950

Plaintiff

vs.

METRO-NORTH COMMUTER RAILROAD
347 Madison Avenue
New York, NY 10017

Defendant.



NOW COMES the Plaintiff, GORGE RIVERA, by and through his attorneys, THE LAW OFFICES OF KANTOR & GODWIN, PLLC, for his Complaint against the Defendant, METRO-NORTH COMMUTER RAILROAD, herein alleges:

1. That this action is being brought against the Defendant, METRO-NORTH COMMUTER RAILROAD. (hereinafter "METRO-NORTH") pursuant to the provisions of the Federal Employer's Liability Act, Title 45 USC § 51, et seq. and that the amount in controversy exclusive of interest, exceeds \$75,000
2. That at all times hereinafter, the Plaintiff, GORGE RIVERA, was and is a resident of the Town of Mastic, County of Suffolk, and State of New York.
3. That at all times hereinafter mentioned, the Defendant, METRO-NORTH was and still is a public benefit corporation duly organized, created and existing under the laws of the State of New York, authorized to do business in the State of New York, and a common carrier in interstate transportation and commerce by railroad.

4. The Defendant, METRO-NORTH, has tracks, operates trains, and does business within the the State of New York and maintains a principle place of business within the County of New York and State of New York with offices located at 347 Madison Avenue New York, N.Y. 10017.

5. That at all times hereinafter mentioned, the Plaintiff, GORGE RIVERA, herein is a employee of the Defendant, METRO-NORTH as that term is defined under Section 45 U.S.C. §51, et seq. and as such, is a conductor for the Defendant and is engaged by the Defendant to perform duties in the furtherance of its business interests and movement of freight in interstate and foreign commerce by Defendant, railroad, METRO-NORTH.

6. That this Court has proper jurisdiction as established by 45 U.S.C. §56 and 28 U.S.C. §1331.

7. That on or about the 7th day of June, 2005, the Plaintiff, GORGE RIVERA was assigned to work out of New York, New York in furtherance of Defendant, METRO-NORTH'S business in interstate commerce when he sustained injuries as a result of Defendant, METRO-NORTH's negligence.

8. That as a result of the negligence of the Defendant, METRO-NORTH, its agents, servants, employees with respect to the negligent and careless operation of its business with respect to the failure of the Defendant to properly provide Plaintiff with a safe place to work pursuant to the Federal Employers' Liability Act, 45 U.S.C. §51, et seq. and the federal and state rules and regulations promulgated thereunder; failure of Defendant to properly warn Plaintiff of the possible and potential hazards to his health; the failure of the Defendant to inspect and maintain its property in a proper and safe manner; the failure of the Defendant to properly operate the job and in general reckless, careless and negligent manner in which the Defendant and its agents carried on its business, Plaintiff was caused to suffer serious and permanent



injuries while employed by the Defendant, METRO-NORTH, on or about the 7th day of June, 2005.

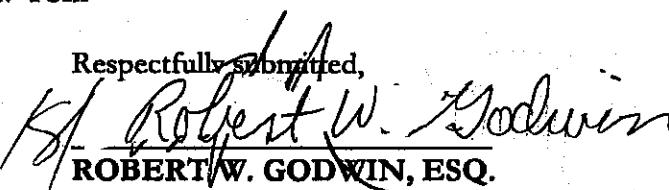
9. That as a result of the Defendant, METRO-NORTH's negligence, the Plaintiff was caused to suffer severe, permanent, personal and painful physical and emotional injuries, mental anguish, disability, denial of social pleasure and enjoyment of life, change of lifestyle, and has and will be caused to lose time from his railroad employment and will incur expenses and suffer additional damages into the future.

10. That the Plaintiff, GORGE RIVERA demands a trial by jury on all issues.

WHEREFORE, the Plaintiff, GORGE RIVERA, demands a money judgment against the Defendant, METRO-NORTH COMMUTER RAILROAD for whatever amount said Plaintiff is found to be entitled to, together with the costs and disbursements of this action.

Dated: May 21, 2008
Williamsville, New York

Respectfully submitted,


ROBERT W. GODWIN, ESQ.
Law Offices of Kantor & Godwin, PLLC
Attorneys for Plaintiff
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Williamsville, New York 14221
(716) 626-0404
kantorgodwin@roadrunner.com